

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

U.S.A. vs. James Michael Caldwell

Docket No. 5:08-CR-374-1BO

Petition for Action on Supervised Release

COMES NOW Scott Plaster, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of James Michael Caldwell, who, upon an earlier plea of guilty to Possession with the Intent to Distribute a Quantity of Marijuana, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(D), and Possession with the Intent to Distribute a Quantity of Cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C), was sentenced by the Honorable Terrence W. Boyle, U.S. District Judge, on April 21, 2009, to the custody of the Bureau of Prisons for a term of 46 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 36 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.

James Michael Caldwell was released from custody on December 19, 2011, at which time the term of supervised release commenced.

On March 8, 2012, in an effort to provide the defendant with forklift operator training, the conditions of supervised release were modified to include participation in a vocational training program as directed by the probation officer.

On October 26, 2012, a violation report was submitted to the court advising the defendant had tested positive for marijuana use in September 2012. The short and long term consequences of the defendant's decision to use marijuana were reviewed, his frequency of drug screens was increased, and he was referred for substance abuse treatment. The court agreed to continue supervision with no additional action being taken.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

The defendant submitted a drug screen on December 19, 2012, that was positive for marijuana. When questioned about the same, the defendant admitted smoking marijuana. He also submitted a drug screen on January 7, 2013, that was positive for marijuana; however, it is not known at this time whether this is the result of residual amounts of the drug being in the defendant's system or a result of additional use. Mr. Caldwell admitted he has used marijuana as a means of coping with stressors related to living with his mother, as well as battling feelings of depression related to the death of a family member. Prior to and during his imprisonment, Mr. Caldwell was prescribed Paxil, an antidepressant, but he ceased its use upon his release from prison. The probation

officer contacted the defendant's substance abuse counselor, and he indicated Mr. Caldwell could benefit from more intensive substance abuse treatment, in addition to a psychiatric evaluation. Mr. Caldwell was referred to Johnston County Mental Health, but failed to schedule an appointment. He has since agreed to meet with a counselor and psychiatrist in order to address his depression. In addition to the actions previously outlined, it is recommended Mr. Caldwell be placed on home detention for a period not to exceed 30 days, as directed by the probation officer in an effort to address his ongoing use of marijuana. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall participate in a program of mental health treatment, as directed by the probation office.
2. The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 30 consecutive days. The defendant shall be restricted to his residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing is true and correct.

/s/Jeffrey L. Keller
Jeffrey L. Keller
Supervising U.S. Probation Officer

/s/Scott Plaster
Scott Plaster
U.S. Probation Officer
310 New Bern Avenue, Room 610
Raleigh, NC 27601-1441
Phone: (919) 861-8660
Executed On: January 14, 2013

ORDER OF COURT

Considered and ordered this 15 day of January, 2013, and ordered filed and made a part of the records in the above case.

Terrence W. Boyle
Terrence W. Boyle
U.S. District Judge